

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC,  
CARGILL, INC.,  
FLOWERVE CORPORATION,  
KELSEY-HAYES COMPANY,  
NCR CORPORATION,  
NORTHROP GRUMMAN SYSTEMS CORPORATION, and  
WASTE MANAGEMENT OF OHIO, INC.

Defendants.  
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Civil Action No. 3:18-cv-00054

**COMPLAINT**

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this complaint and alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action brought pursuant to Sections 106, 107 and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §§ 9606, 9607(a) and 9613(g)(2). The United States seeks to recover certain unreimbursed costs incurred and to be incurred for response activities related to the release and threatened release of hazardous substances from facilities at and near the North Sanitary (aka “Valleycrest”) Landfill Superfund Site in Dayton, Ohio (“Site”). The United States also seeks injunctive relief requiring that Defendants perform the selected remedy at the

Site, which requires the installation of a composite barrier system over a portion of the Site and the implementation of other measures to address risks posed by contaminated soils, leachate and landfill gas. Finally, the United States seeks a judgment on liability for Site response costs that will be binding on any subsequent action or actions to recover further Site response costs pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2).

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action under Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and under 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to CERCLA Section 113(b), 42 U.S.C. § 9613(b), and under 28 U.S.C. § 1391(b) and (c). A substantial part of the events giving rise to the claims asserted herein occurred within this district because (i) the Site is located within this district, (ii) threatened and actual releases of hazardous substances occurred within this district, and (iii) the costs that the United States seeks to recover herein relate to response actions undertaken by the United States at or in connection with the Site.

### **GENERAL ALLEGATIONS**

#### **A) The Site**

4. The Site occupies approximately 104 acres and consists of five former sand and gravel quarries where industrial and municipal wastes were dumped from 1966 to 1989. The industrial wastes include volatile organic compounds (“VOCs”), heavy metals, polychlorinated biphenyls (“PCBs”), and other “hazardous substances” within the meaning Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

5. The Site is located in a mixed urban, commercial, industrial, and residential area and is directly over the Great Miami Buried Valley Aquifer – a federally designated sole-source

aquifer that provides drinking water for approximately 47,000 people in the Greater Dayton area. The Site is a “facility” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9)

6. EPA has determined that actual and threatened releases of hazardous substances to and from soil and groundwater at the Site, as well as actual and threatened releases of hazardous substances from the Site to the air, pose a substantial risk to human health and welfare.

7. In response to those actual and threatened releases, EPA has incurred, and will continue to incur, response costs that are not inconsistent with the National Contingency Plan (“NCP”), promulgated under Section 105 of CERCLA, 42 U.S.C. § 9605, and as set forth at 40 C.F.R. Part 300.

8. EPA selected a final remedial action for the Site in a record of decision (“ROD”) on August 18, 2013. The ROD requires, among other things, the installation of a landfill cap over a large portion of the Site and the extraction and treatment of leachate and contaminated groundwater. Flammable gases, such as methane, trapped in the soils at the Site will be addressed through a landfill gas collection and abatement system. EPA estimates the net present value cost of the remedial action to be approximately \$35.5 million.

B) The Defendants

9. Each of the Defendants is a “person,” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

10. Defendant Waste Management of Ohio, Inc. (“WM Ohio”) is the corporate successor to a common set of corporate predecessors, including North Sanitary Landfill, Inc. (“NSLI”) and Industrial Waste Disposal Co, Inc. (“IWDC”). NSLI and IWDC owned or operated the Site at the time of disposal of hazardous substances and, in the case of IWDC, also

accepted and transported hazardous substances to the Site for disposal. As a result, WM Ohio is liable in this action under Sections 107(a)(2) and (a)(4) of CERCLA, 42 U.S.C. §§ 9607(a)(2) and (a)(4).

11. Defendant Bridgestone Americas Tires Operations, LLC (“Bridgestone”) is the corporate successor to Firestone Tire & Rubber Company (“Firestone”). Firestone, in turn, was the corporate successor to The Dayton Tire & Rubber Company, which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Bridgestone is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

12. Defendant Cargill, Inc. (“Cargill”) owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Cargill is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

13. Defendant Flowserve Corporation (“Flowserve”) is the corporate successor to Duriron Company, Inc., which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Flowserve is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

14. Defendant Kelsey-Hayes Company (“Kelsey-Hayes”) – a wholly-owned subsidiary of ZF TRW Automotive Holdings Corporation – is corporate successor to Dayton Walther Corporation, which owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for

the transport of such substances to the Site for disposal. As a result, Kelsey-Hayes is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

15. Defendant NCR Corporation (“NCR”) owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, NCR is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

16. Defendant Northrop Grumman Systems Corporation (“Northrop Grumman”) is successor to relevant liabilities of TRW Globe Motors, which was formerly known as Globe Industries (“Globe”). Globe owned or possessed hazardous substances, and by contract, agreement, or otherwise, arranged for the disposal of such substances at the Site or arranged for the transport of such substances to the Site for disposal. As a result, Northrop Grumman is liable in this action under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

**FIRST CLAIM FOR RELIEF**  
**Cost Recovery under CERCLA Section 107**

17. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference.

18. Each of the Defendants is jointly and severally liable to the United States for all unreimbursed response costs incurred by the United States in connection with the Site pursuant to Section 107(a)(4)(A) of CERCLA, 42 U.S.C. § 9607(a)(4)(A).

**SECOND CLAIM FOR RELIEF**  
**Claim for Relief under Injunctive Relief under Section 106**

19. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference.

20. Each of the Defendants is jointly and severally liable to the United States under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), for injunctive relief to abate the danger or threat presented by releases or threatened release of hazardous substances into the environment at and from the Site.

**THIRD CLAIM FOR RELIEF**  
**Declaratory Judgment for Recovery of Further Response Costs**

21. Paragraphs 1 through 16, above, are re-alleged and incorporated herein by reference

22. Each of the Defendants is jointly and severally liable to the United States for any unreimbursed response costs that the United States further incurs in connection with contamination at the Site, not inconsistent with the NCP, pursuant to Sections 107(a) and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(g)(2), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff United States of America prays that this Court

A. Enter judgment against the above-named Defendants, jointly and severally, for all response costs incurred by the United States, including prejudgment interest, in connection with the Site;

B. Enter a judgment against each Defendant for injunctive relief to abate conditions at the Site that may pose an imminent and substantial endangerment to the public health or welfare or the environment;

C. Enter a declaratory judgment of liability against each Defendant for any unreimbursed response costs, not inconsistent with the NCP, that the United States may further incur in connection with the Site;

D. Grant such other relief as the Court deems appropriate.

Respectfully submitted,

FOR THE UNITED STATES

THOMAS A. MARIANI, JR.  
Section Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

s/ Joseph W.C. Warren  
JOSEPH W.C. WARREN  
Senior Counsel, Environmental Enforcement Section  
KRISTIN FURRIE  
Trial Attorney  
Environment and Natural Resources Division  
Department of Justice  
P.O. Box 7611  
Washington, D.C. 20530  
Furrie: (202) 616-6515  
Kristin.Furrie@usdoj.gov  
Warren: (202) 616-1303  
[Joseph.Warren@usdoj.gov](mailto:Joseph.Warren@usdoj.gov)

BENJAMIN C. GLASSMAN  
United States Attorney  
Southern District of Ohio

KEVIN KOLLER  
Assistant U.S. Attorney  
Southern District of Ohio  
Federal Building, Suite 602  
200 W. Second Street  
Dayton, OH 45400  
(937) 225-2910

OF COUNSEL

NICOLE WOOD-CHI  
Associate Regional Counsel  
U.S. Environmental Protection Agency-Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3507

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

UNITED STATES

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

see attached

**DEFENDANTS**

Bridgestone Americas Tire Operations, LLC; Cargill, Inc.; Flowserve Corporation; Kelsey-Hayes Company; NCR Corporation; Northrop Grumman Systems Corporation, and Waste Management of Ohio, Inc

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

see attached

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding    ☐ 2 Removed from State Court    ☐ 3 Remanded from Appellate Court    ☐ 4 Reinstated or Reopened    ☐ 5 Transferred from Another District (specify)    ☐ 6 Multidistrict Litigation - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA),

Brief description of cause:

Action under CERCLA, 42 U.S.C. §§ 9606 and 9607, seeking response costs and performance of response action.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



**ATTACHMENT TO CIVIL COVER SHEET**

List of Counsel in

*United States v. Bridgestone Americas Tire Operations, LLC, et al.* (S.D. of Ohio)

For the United States:

Joseph Warren  
Kristin Furrie  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044-7611  
202-616-1303

Kevin Koller  
Assistant U.S. Attorney  
Southern District of Ohio  
Federal Building, Suite 602  
200 W. Second Street  
Dayton, OH 45400  
937-225-2910

For the Defendants

Seven N. Siegel  
Dinsmore & Shohl LLP  
255 East 5<sup>th</sup> Street  
Suite 1900  
Cincinnati, OH 45202

Christopher Murphy  
NCR Corporation  
3097 Satellite Boulevard  
Duluth, Georgia 20096

Scott Blackhurst  
Senior Counsel – Health, Safety and Environment  
ZF TRW  
Active & Passive Safety Technology  
12001 Tech Center Drive  
Livonia, Michigan 48150

Cargill Law  
Starches and Sweeteners Environmental Counsel  
15407 McGinty Road West MS24  
Wayzata, MN 55391